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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/022,419 | 12/20/2001 | Taro Suito | 217478US-6 DIV | 5060 |
| 22850 | 7590 | 01/13/2005 | EXAMINER | |
| OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | VO, TUNG T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2613 | |

DATE MAILED: 01/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/022,419 | SUITO ET AL. | |
| | Examiner | Art Unit | |
| | TUNG T. VO | 2613 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20,31-40,51-60 and 71-80 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15,31-35,51-55 and 71-75 is/are rejected.
- 7) ☒ Claim(s) 16-20,36-40,56-60 and 76-80 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/447,496; 09/448,836.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>03/20/02</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 11-15, 31-35, 51-55, and 71-75 are rejected under 35 U.S.C. 102(e) as being anticipated by Suito et al. (US 6,285,818 B1).

The applied reference has a common *inventor and/or assignee* with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Re claim 31, Suito discloses an apparatus for carrying out method for processing a television signal, wherein the television signal comprises an audio portion, the apparatus (fig. 2) comprising:

- a receiver (2 of fig. 2) for receiving the television signal;
- a quiet threshold value determining circuit (7 of fig. 2) for determining a quiet threshold value from the television signal;
- a comparator for making a comparison (7 and 8 of fig. 2) of the audio portion of the television signal and the quiet threshold value (see also the process of figs. 4 and 4) ; and
- a judging circuit (10 of fig. 2) for judging whether or not a portion of the television signal is a commercial candidate section according to the comparison (see also the process of fig. 5).

Re claim 32, Suito further discloses the television signal comprises scene changes (9 of fig. 2); the quiet threshold value determining circuit comprises a scene change detector (9 of fig. 2) and an amplitude detector (2 of fig. 2, e.g. an amplitude detector) for measuring the amplitude of the audio portion of the television signal during the scene changes; and the quiet threshold value determining circuit determines the quiet threshold value based on the audio portion of the television signal at the scene changes (fig. 5).

Re claim 33, Suito further discloses the television signal comprises an audio multiplex mode signal (3 of fig. 2); the quiet threshold value determining circuit comprises an audio multiplex mode detector (3 of fig. 2) for determining the slate of the audio multiplex mode signal and an amplitude detector (2 of fig. 2) for measuring the amplitude of the audio signal when the audio multiplex mode changes; and the quiet threshold value determining circuit determines the

quiet threshold value based on the audio signal at the time the audio multiplex mode changes (7 of fig. 2).

Re claim 34, Suito further discloses the television signal comprises a program start time; the quiet threshold value determining circuit comprises a program start time detector (fig. 7) and an amplitude detector (2 of fig. 2) for measuring the amplitude of the audio signal the audio signal at the program start time; and the quiet threshold value determining circuit determines the quiet threshold value based on the amplitude of the audio signal at the program start time (7 of fig. 2).

Re claim 35, Suito further discloses the television signal comprises a program end time; the quiet threshold value determining circuit comprises a program end time detector and an amplitude detector for measuring the amplitude of the audio signal the audio signal the program end time (figs. 8A-8C); and the quiet threshold value determining circuit determines the quiet threshold value based on the amplitude of the audio signal at the program end time (7 of fig. 2).

Re claims 11-15, see analysis in claims 31-35.

Re claims 51-55, see analysis in claims 31-35.

Re claims 71-75, see analysis in claims 31-35.

Allowable Subject Matter

3. Claims 16-20,36-40, 56-60, and 76-80 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Iggulden et al. (US 5,99,688) discloses a method and apparatus for controlling a video player to automatically locate a segment of recorded program.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUNG T. VO whose telephone number is 703-308-5874. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


TUNG T. VO
PATENT EXAMINER
T.Vo

TUNG T. VO
Primary Examiner
Art Unit 2613